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18 **UNITED STATES DISTRICT COURT**

19 **DISTRICT OF NEVADA**

20 YUGA LABS INC.

21 CASE No.: 2:23-cv-00111-JCM-NJK

22 Plaintiff,

23 v.

24 **DEFENDANT'S OPPOSITION TO**
25 **PLAINTIFF'S AMENDED MOTION FOR**
26 **AN AWARD OF ATTORNEYS' FEES**

27 RYAN HICKMAN

28 Defendant.

19 **INTRODUCTION**

20 Defendant Ryan Hickman (“Defendant”) by and through its counsel of record, hereby
21 submits his Opposition to Plaintiff’s Amended Motion for an Award of Attorneys’ Fees (ECF No.
22 42) (the “Opposition”). In support of its Opposition, Hickman relies upon the facts and legal
23 authority contained in the Memorandum of Points and Authorities, also below.

24 Respectfully submitted by:
25

26 **DICKINSON WRIGHT PLLC**

27 /s/ Caleb L. Green
28 Caleb L. Green, Esq.

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13 *Ryan Hickman*

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MEMORANDUM OF POINTS & AUTHORITIES

The Court should reject Plaintiff's Amended Motion for an Award of Attorneys' Fees in its entirety because: (1) Plaintiff has unclean hands, (2) Plaintiff fails to provide a reasonable itemization of fees and the work performed, and (3) Plaintiff's request for fees is unreasonable. Plaintiff has unclean hands because it failed to comply with Nevada law in its efforts to serve Defendant with process. Further, Plaintiff's redaction of its invoices fail to comply with Nevada Local Rules. Finally, the Court must reject or significantly reduce Plaintiff's request for attorneys' fees because: (1) Nevada is the relevant community for determining appropriate attorneys' fees, and (2) Plaintiff's counsel's hourly rates are unreasonable in Nevada.

I. LEGAL STANDARD

The Supreme Court has held that reasonable attorney fees must "be calculated according to the prevailing market rates in the *relevant community*," considering the fees charged by "lawyers of reasonably comparable skill, experience, and reputation." *Blum v. Stenson*, 465 U.S. 886, 895-96 n. 11, 104 S.Ct. 1541 (1984). Courts typically use a two-step process when determining fee awards. *Fischer v. SJB-P.D. Inc.*, 214 F.3d 1115, 1119 (9th Cir. 2000). First, the Court must calculate the lodestar amount "by taking the number of hours reasonably expended on the litigation and multiplying it by a reasonable hourly rate." *Id.* Furthermore, other factors should be taken into consideration such as special skill, experience of counsel, and the results obtained. *Morales v. City of San Rafael*, 96 F.3d 359, 364 n. 9 (9th Cir. 1996). "The party seeking an award of fees should submit evidence supporting the hours worked and rates claimed ... [w]here the documentation of hours is inadequate, the district court may reduce the award accordingly." *Hensley v. Eckerhart*, 461 U.S. 424, 433 (1983). Second, the Court "may adjust the lodestar, [only on rare and exceptional occasions], upward or downward using a multiplier based on factors not subsumed in the initial calculation of the lodestar." *Van Gerwen v. Guarantee Mut. Life Co.*, 214 F.3d 1041, 1045 (9th Cir. 2000).

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1 **II. LEGAL ARGUMENT**

2 **A. The Court Must Deny Plaintiff's Amended Motion for Attorneys' Fees in its**

3 **Entirety because of Plaintiff's Unclean Hands**

4 It is well-settled that awarding fees based on an exceptional case finding is an exercise of

5 the court's equitable powers. *SunEarth, Inc. v. Sun Earth Solar Power Co.*, 839 F.3d 1179, 1180-

6 81 (9th Cir. 2016). As an equitable determination, ***the conduct of the party seeking equity must***

7 ***also be considered.*** *Ramirez v. Collier*, 142 S. Ct. 1264, 1282 (2022) ("When a party seeking

8 equitable relief has violated conscience, or good faith, or other equitable principle, in his prior

9 conduct, then the doors of the court will be shut against him.") (internal quotations and citations

10 omitted); *Adler v. Fed. Republic of Nigeria*, 219 F.3d 869, 876-77 (9th Cir. 2000), *as amended on*

11 *denial of reh'g and reh'g en banc* (Aug. 17, 2000) ("A party which comes to a court in equity

12 seeking equitable relief may not obtain such relief where it has engaged in improper conduct in

13 the course of the equitable proceeding); 28 Am. Jur. 2d Estoppel and Waiver § 153 ("A court of

14 equity is bound to consider the conduct of the parties seeking equitable relief."); *Jarrow Formulas,*

15 *Inc. v. Nutrition Now, Inc.*, 304 F.3d 829, 841 (9th Cir. 2002) (defining unclean hands as a *defensive*

16 doctrine that bars a party from seeking equitable relief when its conduct is tainted by bad faith)

17 In the present case, Plaintiff engaged in serious misconduct when it violated Nevada law

18 in its efforts to attempt service on Hickman. Specifically, Plaintiff failed to comply with NRS

19 14.090. NRS 14.090 provides, in pertinent part:

21 "(1) A person who resides at a location to which access is not reasonably available except

22 through a gate may be lawfully served with any legal process in the manner provided in

23 this section. If there is:

24 . . .

25 (b) No guard posted at the gate and entry through the gate is not reasonably available, the

26 court may, if it is satisfied by affidavit that those facts are true, allow service of process

27 by mailing a copy thereof to the residence by certified or registered mail."

28 Courts through this District regularly permit alternative service and even extends the period

29 of time for service of process through mailing when the defendant lives in a gate community. *See*,

1 e.g., *Campbell v. Nevada Dep't of Corr.*, No. 220CV00634CDSVCF, 2022 WL 10632257, at *2
 2 (D. Nev. Oct. 14, 2022) (where defendant resided in a gated community, allowing a U.S. Marshall
 3 to perfect service of process of the complaint and summons the defendant by mailing a copy to
 4 defendant's residence); *see also Bank of the W. v. Barton*, No. 2:14-CV-00770-APG, 2014 WL
 5 3514978, at *3 (D. Nev. July 15, 2014) (permitting alternative service via mail where defendant's
 6 residence was "located behind a gate"). Here, Hickman's residence is located in a gated
 7 community.¹ Further, entry into the gate community wherein Hickman's residence is located is not
 8 reasonably available because the gate community requires a confidential gate code to access entry.²
 9 Additionally, the gates on the gated communities bear signs prohibiting trespassing from non-
 10 residents.³ Accordingly, Plaintiff should have sought alternative service under NRS 14.090,
 11 instead of attempting service on Hickman, and subsequently seeking default judgment in this
 12 matter.

13 More importantly, Plaintiff's own process server omitted important facts in its affidavit,
 14 including the fact that Hickman lived in a gated community. As a result, Plaintiff's process server
 15 should have recognized that Hickman resided in a gate community, and informed Plaintiff's
 16 counsel so they could seek leave from the Court for alternative service pursuant to NRS 14.090.
 17 Had Plaintiff followed NRS 14.090 and sought alternative service, it likely would have avoided
 18 its defunct service of process on Hickman, and the Court likely would not have awarded Plaintiff
 19 default judgment.

20 As set forth above, Plaintiff's hands are unclean as they have violated Nevada law in their
 21 attempts to effect service for the instant matter, and materially benefited through obtaining default
 22 judgment. The Court should not allow Plaintiff to benefit from its unlawful service involving its
 23 failures to comply with Nevada service laws. As such, Court should deny Plaintiff's Amended
 24 Motion for Attorney's fees and costs in its entirety.

25
 26 ¹ Correct and accurate photos of the gates and barriers surrounding the community where Mr.
 Hickman resides are attached hereto as **Exhibit A**.

27 ² *See id.*

28 ³ *See id.*

1 **B. Plaintiff's Failed to Provide Reasonable Itemization and Description of Work**
 2 **Performed**

3 Nevada Local Rule 54–16 states that a motion for attorneys' fees must include a
 4 "reasonable itemization and description of the work performed." Nev. Loc. R. 54–16(b)(1).
 5 Further, wholesale redactions of attorney bills are improper. "[T]he proper methodology is to
 6 include the general subject of [the work performed] while billing but redact privileged information
 7 when submitting the billing entries with the court so that the information remains privileged but
 8 the court can conduct an *in camera* review if necessary." *United States v. \$167,070.00 in U.S.*
 9 *Currency*, No. 3:13-CV-00324-LRH, 2015 WL 5057028, at *5 (D. Nev. Aug. 25, 2015) (citations
 10 omitted). *Where a party fails to furnish "enough information for a court to form a judgment on*
 11 *whether its fees were legitimate, then a court might be obligated to deny them."* *Democratic*
 12 *Party of Wash. State*, 388 F.3d at 1286 (emphasis added); *see also Branch Banking & Tr. Co.*,
 13 2014 WL 4636049, at *3 (reducing award of attorneys' fees where counsel's redactions made "it
 14 difficult to determine the reasonableness of certain entries."); *England*, 2008 WL 11389184, at *1
 15 ("The Court will not award fees where the description of the item has been completely redacted
 16 and no other information is provided to show how the item relates to [the matter]."); *see also*
 17 *Arndell v. Robison, Belaustegui, Sharp & Low*, No. 3:11-CV-469-RCJ-VPC, 2013 WL 1121802,
 18 at *2 (D. Nev. Mar. 14, 2013).

19 In the present case, the Court must deny Plaintiff's Amended Motion for Attorneys' Fees
 20 because its mass redactions to the description of legal service provided violates Nevada Local Rule
 21 make it impossible to determine the description of the work provided and the reasonableness of
 22 the related fees. In support of its Amended Motion for Attorneys' Fees, Plaintiff filed an Exhibit
 23 with over 500 pages of bills and time entries for legal service it's purported to have paid to its
 24 counsels for the instant matter. (ECF No. 42-1, pp. 30 – 563). However, the vast majority of these
 25 documents are redacted. Indeed, many series of pages in the exhibit are redacted in their entireties.
 26 More importantly, several descriptions of the professional services are redacted, most in their

1 entireties, making it impossible to determine the scope and reasonableness of the legal services
 2 rendered and the associated fees.

3 For example, the entry from Eric Ball on December 11, 2022 redacts almost the entirety of
 4 the description of the work performed, leaving only the short description “review and revised
 5 Hickman complaint” for 3.0 hours and amounting to \$3,870. A screen capture of the entry is below:

6	12/11/22 Eric Ball		3.0	3,870.00
7	[REDACTED]			
8	[REDACTED]			
9	[REDACTED]			
10	[REDACTED] review and			
11	revise Hickman complaint: [REDACTED]			
12	[REDACTED]			
13	[REDACTED].			

14 (ECF No. 42-1 at 106.)

15 This redaction pattern is repeated throughout the document for several other firm
 16 employees, including another entry from Eric Ball on December 12, 2022 for nearly identical
 17 work, but almost double the hours, captured below:

18	12/12/22 Eric Ball		5.2	6,708.00
19	[REDACTED]			
20	[REDACTED]			
21	[REDACTED]			
22	[REDACTED]			
23	review and revise Hickman complaint: [REDACTED]			
24	[REDACTED]			
25	[REDACTED]			

26 (ECF No. 42-1 at 107.)

1 These are just select examples of the mass redaction practice employed by Plaintiff. On its
 2 face, the redacted entries are unreasonable and violates Nevada Local Rule 54–16 as they redact
 3 the vast majority of the legal services rendered, making it impossible for any Court to determine
 4 the legitimacy of the legal service rendered. As such, Plaintiff’s Amended Motion for Attorneys’
 5 Fees must be denied in its entirety.

6 **C. Plaintiff’s Requested Fees are Not Reasonable**

7 In the alternative, if the Court still determines Plaintiff is entitled to attorneys’ fees, then
 8 the Court at a minimum must substantially reduce the fees requested by Plaintiff because Fenwick
 9 & West’s fees are extremely unreasonable.

10 *i. The Relevant Community is in Nevada*

11 Plaintiff’s Amended Motion for Attorneys’ Fees must be significantly reduced because the
 12 Court must consider the rates in the relevant community of Nevada.

13 The Supreme Court has held that reasonable attorney fees must “be calculated according
 14 to the prevailing market rates in the relevant community.” *Blum v. Stenson*, 465 U.S. 886, 895–96
 15 n. 11 (1984). “Generally, when determining a reasonable hourly rate, the relevant community is
 16 the forum in which the district court sits.” *Camacho v. Bridgeport Fin., Inc.*, 523 F.3d 973, 979
 17 (9th Cir.2008). However “rates outside the forum may be used if local counsel was unavailable,
 18 either because they are unwilling or unable to perform because they lack the degree of experience,
 19 expertise, or specialization required to handle properly the case.” *Id* (citing *Barjon v. Dalton*, 132
 20 F.3d 496, 500 (9th Cir.1997)).

21 “[C]ourts properly have required prevailing attorneys to justify the reasonableness of the
 22 requested rate or rates.” *Blum v. Stenson*, 465 U.S. at 895–96 n. 11. “To inform and assist the court
 23 in the exercise of its discretion, the burden is on the fee applicant to produce satisfactory evidence—
 24 in addition to the attorneys’ own affidavits—that the requested rates are in line with those prevailing
 25 in the community for similar services by lawyers of reasonably comparable skill, experience, and
 26 reputation” *Id*. The plaintiff must prove “unavailability” of counsel *within* the local forum, to
 27 justify the use of outside counsel. *Barjon v. Dalton*, 132 F.3d 496, 501 (9th Cir. 1997).

1 Notably, here, Plaintiff's Amended Motion for Attorney's Fees is completely devoid of
 2 any evidence that local counsel within the District of Nevada was "unavailable." Instead,
 3 Plaintiff's Motion for Attorney's Fees merely states that Plaintiff's counsel was "not aware of any
 4 law firm in Nevada with comparable expertise" and focuses solely on why Plaintiff preferred
 5 Fenwick & West LLP. That is not sufficient to demonstrate that local Nevada counsel was
 6 unavailable.

7 The Ninth Circuit has determined that evidence of a party being denied representation by
 8 several local firms is sufficient to demonstrate local counsel was "unavailable." *De Jesus Ortega*
 9 *Melendres v. Arpaio*, No. 13-16285, 2017 WL 10808812, at *4 (9th Cir. Mar. 2, 2017). In stark
 10 contrast, Plaintiff has failed to present any evidence that it even attempted to reach out to any local
 11 counsel to inquire of their availability, whatsoever.

12 More importantly, at its core, this case was a textbook trademark infringement lawsuit
 13 against an individual, which requires no special skills or experience. Plaintiff attempts to frame
 14 this case as a complex case involving novel technologies to justify its absorbent and unreasonable
 15 fees. Plaintiff's counsel Fenwick & West touts its experience in non-fungible token litigation, and
 16 self-promoting its counsel through firm biographies. However, Fenwick & West's NFT experience
 17 is irrelevant here because the core issues was whether Defendant infringed on Plaintiff's trademark
 18 rights. Moreover, Plaintiff obtain the judgment in matter through default judgment, a task that
 19 hardly requires any specialized knowledge or skill, but rather a fundamental understanding of the
 20 rules of civil procedure and Nevada's local rules. As such, this simple trademark infringement case
 21 did not require detailed knowledge or understanding of NFTs.

22 Moreover, Nevada is abundant with law firms capable of handling trademark infringement
 23 matters, such as Plaintiff's own local counsel Fennemore⁴ and Brownstein Hyatt Farber Shrek⁵.

24
 25 ⁴ See Intellectual Property, <https://www.fennemorelaw.com/services/practices/intellectual-property-and-ip-litigation/> (last visited on March 8, 2024).

26
 27 ⁵ See Intellectual Property Litigation, <https://www.bhfs.com/services/practices/intellectual-property/intellectual-property-litigation> (last visited March 8, 2024).

1 Correct and accurate copies of website printouts from the aforementioned law firms are attached
 2 hereto as **Exhibit B**. Even if the Court finds some level of NFT knowledge was necessary for this
 3 matter, a simple online review of several national and international law firms, with locations in
 4 Nevada, reveals they have significant expertise in emerging technology, blockchain, and NFT
 5 related litigation, including, but not limited to, Greenberg Traurig,⁶ Armstrong Teasdale,⁷ Ballard
 6 Spahr,⁸ and Snell & Wilmer.⁹ Correct and accurate copies of website printouts from the

7⁶ See Greenberg Traurig, Blockchain & Digital Assets,
<https://www.gtlaw.com/en/capabilities/blockchain> (last visited on March 6, 2024))

8 “**Cryptocurrency and Digital Assets (including NFTs)**: As cryptocurrencies and other digital
 9 assets, **including NFTs**, have gained market acceptance in recent years as a fundraising vehicle
 10 for our clients, a critical part of a blockchain platform, or for consumptive use, our team
 11 carefully evaluates each opportunity in terms of the business and financing requirements of the
 12 client, as well as the emergent risks and costs associated with securities and other regulatory
 13 compliance obligations, market volatility, and other factors...Our team stays abreast of existing
 14 laws and recent enforcement actions, decisions, rulings, and orders, as well as legal trends,
 15 upcoming legislation, and technical developments, helping clients to anticipate and prepare for
 16 potential compliance requirements and legal and regulatory changes.

17 see also Greenberg Traurig, Intellectual Property & Technology,
<https://www.gtlaw.com/en/capabilities/intellectual-property--technology> (last visited on March 6,
 18 2024)) (“Our Trademarks and Brand Management Practice features one of the largest trademark
 19 prosecution, portfolio management, licensing, litigation, and counseling legal practices
 20 worldwide. We also counsel extensively on fair use, social media, mobile, cloud, and new
 21 technology issues. Our litigation teams regularly handle **complex** copyright, **trademark**, patent,
 22 and trade secret cases.”)

23⁷ See Armstrong Teasdale, Technology, <https://www.armstrongteasdale.com/technology/> (last
 24 visited on March 6, 2024)) (“Armstrong Teasdale has extensive experience in all forms of
 25 litigation where the dispute centers on technology. This includes not only patent and copyright
 26 litigation, but also high-value breach of contract, product liability, commercial tort and consumer
 27 protection matters in U.S. federal and state courts, and international courts. Armstrong
 28 Teasdale’s combination of elite trial experience and deep technological knowledge – which
 draws on the experience of professionals in the firm’s Intellectual Property practice group –
 enables our lawyers to handle all aspects of complex, technology-oriented litigation, and to
 deliver superior results in matters that often have tens or hundreds of millions of dollars at
 stake.”)

⁸ See Ballard Spahr, Trademarks and Copyrights,
<https://www.ballardspahr.com/Services/Practices/Trademarks-and-Copyrights> (last visited on
 March 6, 2024) (“We also understand how **new technologies** affect brand strategies, including
 social media, contextual advertising, and affiliate network advertising.”)

⁹ See Snell & Wilmer, Technology, <https://www.swlaw.com/services/technology> (last visited on
 March 6, 2024)) (“Our technology attorneys have robust transactional and litigation experience
 in a variety of areas, including: software and hardware development; data privacy and security
 compliance; fintech, **blockchain**, and cryptocurrency; artificial intelligence and big data; and
 communications networks and devices. We combine our deep understanding of specific

1 aforementioned law firms are attached hereto as **Exhibit C**. Plaintiff's Amended Motion fails to
 2 address and provides no evidence how any of these firms, or many others, do not have the requisite
 3 ability to represent them in the instant matter.

4 Put simply, Plaintiff cannot simply rely on ignorance of any knowledge of local counsel
 5 with expertise in emerging technologies, NFT, or blockchain related litigation, without
 6 demonstrating any evidence supporting its efforts to determine that no law firms in Nevada have
 7 the expertise and ability to represent Plaintiff in these proceedings. As such, Plaintiff fails entirely
 8 to demonstrate how local counsel was "unavailable," and therefore the relevant community for
 9 determining reasonable attorneys' fees is Nevada.

10 *ii. The Hourly Rates for Fenwick & West LLP are Unreasonable in Nevada*

11 "Generally, when determining a reasonable hourly rate, the relevant community is the
 12 forum in which the district court sits." *Camacho v. Bridgeport Fin., Inc.*, 523 F.3d 973, 979 (9th
 13 Cir.2008). Here, the forum is the District of Nevada. The rates prevailing in Nevada for "similar
 14 services by lawyers of reasonably comparable skill, experience, and reputation" thus furnish the
 15 proper measure of the reasonableness of the rates awarded. *Blum v. Stenson*, 465 U.S. 886, 895 n.
 16 11, 104 S.Ct. 1541, 79 L.Ed.2d 891 (1984).

17 For the Las Vegas market, this Court has regularly awarded fees where the hourly rates at
 18 issue were between \$250 and \$400. *See, e.g., Snow v. McDaniel*, No. 3:08-cv-00046-RCJ-VPC,
 19 2014 WL 590489, at *1 (D. Nev. Feb. 14, 2014) (finding a \$250 hourly rate reasonably within the
 20 context of a section 1988 inquiry); *Gibbs v. Rivers Transp. Group, Inc.*, No. 2:13-cv-00935-JAD-
 21 NJK, 2014 WL 204928, at *3 (D. Nev. Jan. 17, 2014) (finding a \$250 hourly rate reasonable in
 22 Las Vegas); *Marrocco v. Hill*, 291 F.R.D. 586, 589 (D. Nev. 2013) (finding hourly rates between
 23 \$375 and \$400 reasonable in Las Vegas); *Conboy v. Wynn Las Vegas, LLC*, No. 2:11-cv-01649-
 24 JCM-CWH, 2012 WL 6100313, at *3 (D. Nev. Dec. 7, 2012) (finding a \$350 hourly rate
 25 reasonable in Las Vegas); *Am. Gen. Life Ins. Co. v. Futrell*, No. 2:11-cv-00977-PMP-CWH 2012

26 technologies with our years of experience advocating for our clients to guide them through
 27 technology development, commercial contracting, **intellectual property protection**, and dispute
 resolution.")

1 WL 5497901, at *3 (D. Nev. Nov. 13, 2012) (finding hourly rates between \$250 and \$400
 2 reasonable in Las Vegas).

3 Even in intellectual property and complex cases, courts throughout this District have found
 4 reasonable rates in the Las Vegas market range as much as \$450 for partners and \$250 for
 5 experienced associates. *See, e.g., Crusher Designs*, 2015 WL 8041619, at *2 (outlining rates of as
 6 much as \$450 for partners); *Home Gambling Network, Inc. v. Piche*, 2015 WL 1734928, *10
 7 (D.Nev. Apr. 16, 2015) (in patent litigation, awarding hourly rate of \$361.71 for attorney with over
 8 30 years experience specializing in complex patent and intellectual property litigation); *Aevoe*
 9 *Corp. v. AE Tech Co. Ltd.*, 2013 WL 5324787, *8 (D.Nev. Sept. 20, 2013) (in patent litigation,
 10 awarding hourly rates of \$375 and \$400 for partners practicing at prestigious Nevada law firm);
 11 *Aevoe Corp. v. Schenzen Precise Electron Ltd.*, 2012 WL 2244262, *9 (D. Nev. June 15, 2012)
 12 (in patent litigation, awarding hourly rate of \$400 for partner specializing in intellectual property
 13 at national law firm \$400). Further, the prevailing, reasonable rate for even the most experienced
 14 paralegals and professional staff in Las Vegas is \$125. *See, e.g., Boliba v. Camping World,*
 15 *Inc.*, 2015 WL 5089808, *4 (D.Nev. Aug. 27, 2015) (setting rate at \$125 for paralegal with
 16 paralegal certificate and 24 years experience); see also *Hakkasan LV, LLC v. Adamczyk*, No.
 17 214CV01717GMNNJK, 2015 WL 8041619, at *1 (D. Nev. Dec. 4, 2015); *see also Crusher*
 18 *Designs, LLC v. Atlas Copco Powercrusher GmbH*, 2015 WL 6163443, *2 (D. Nev. Oct. 20,
 19 2015).

20 In the present case, Mr. Ball, who has been practicing since 2005, seeks hourly rates of
 21 \$1,096.50 and \$1,290.00. (ECF No. 42-1, at ¶6.) Ms. Kulp, who has been practicing since 2005,
 22 seeks hourly rates of \$964.75.00 and \$1,135.00. (ECF No. 42-1, at ¶7.) Mr. Fare who has been
 23 practicing since 2017, seek hourly rates of \$875.50 and \$1,030.00. (ECF No. 42-1, at ¶8.) Ms.
 24 Hauh, who has only been practicing since 2022, seeks hourly rates of \$544.00 and \$640.00. (ECF
 25 No. 42-1, at ¶9.) Plaintiff's counsel also seeks \$4,213.36 from "Other Professionals" whose hourly
 26 rates range from \$437.75 to \$977.63. (ECF No. 42-1, at ¶29.)

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 28

1 In stark contrast, Nevada attorney John D. Tennert, III, who is a “Director” at the law firm
2 of Fennemore Craig who is well respected in the Nevada legal community and has been practicing
3 for more than 14 years, seeks \$520.00 per hour. (ECF No. 33-1, at ¶10.) This stark difference, on
4 its face, shows that the rates sought by Mr. Ball, Ms. Kulp, Mr. Fare, and Ms. Huah are neither
5 reasonable nor customary for the State of Nevada. For example, Mr. Tennert III’s hourly rate is
6 almost the same as the lowest hourly rate for Ms. Hauh, who has been in practice of barely two
7 years. Likewise, the highest rate for “Other Professionals” is \$977.63, which is nearly double Mr.
8 Tennert III’s hourly rate. Similarly, Mr. Fare’s highest hourly rate (\$1,030.00) is almost double
9 the hourly rates for Mr. Tennert III, despite the fact that Mr. Tennert III has been practicing law
10 for twelve years longer than Mr. Fare, and Mr. Tennert III is a “Director,” whereas Mr. Fare is an
11 associate.

12 Therefore, Hickman respectfully requests that the hourly rates afforded to Fenwick & West
13 be limited to:

- 14 • No more than \$250 for Mr. Fare and Ms. Huah;
15 • No more than \$450.00 per hour for Mr. Ball and Ms. Kulp, or alternatively, no
16 more than the hourly rate for Mr. Tennert III; and
17 • No more than \$125 for “Other Professionals.”

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1 **III. CONCLUSION**

2 Based on the foregoing, the Court may deny Plaintiff's Amended Motion for an Award of
3 Attorneys' Fees. In the alternative, the Court must significantly reduce the amount of fees and
4 costs sought by Plaintiff.

5 **DATED** this 8th day of March, 2024.

6 **DICKINSON WRIGHT PLLC**

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20 Attorneys for Defendant
21 *Ryan Hickman*

CERTIFICATE OF SERVICE

The undersigned, an employee of Dickinson Wright PLLC, hereby certifies that on the 8th day of March, 2024, a copy of the foregoing **DEFENDANT'S OPPOSITION TO PLANITFF'S AMENDED MOTION FOR AN AWARD OF ATTORNEYS' FEES**, was served electronically to all parties of interest through the Court's CM/ECF system as follows:

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